

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

BRENDA J.,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

Case No. C20-6058 RAJ

**ORDER AFFIRMING DENIAL OF  
BENEFITS**

Plaintiff seeks review of the denial of her applications for Supplemental Security Income and Disability Insurance benefits. Plaintiff raises a number of issues unrelated to the denial of benefits. Dkt. 39. As discussed below, the Court **AFFIRMS** the Commissioner's final decision and **DISMISSES** the case with prejudice.

**BACKGROUND**

Plaintiff is 54 years old, has at least a high school education, and has worked as an administrative clerk, education courses sales representative, collections clerk, order clerk, and appointment clerk. Admin. Record ("AR") (Dkt.30) 15, 23, 88, 96, 225–43. On August 8, 2017, Plaintiff applied for benefits, alleging disability as of December 1, 2015. AR 15. Plaintiff's applications were denied initially and on reconsideration. AR 86–133. After the administrative law judge ("ALJ") conducted a hearing on June 11, 2019, the ALJ issued a decision finding

1 Plaintiff not disabled. AR 15–26, 33–85.

## 2 THE ALJ’S DECISION

3 Utilizing the five-step disability evaluation process,<sup>1</sup> the ALJ found:

4 **Step one:** Plaintiff has not engaged in substantial gainful activity since December 1,  
5 2015, the alleged onset date.

6 **Step two:** Plaintiff has the following severe impairments: Lumbar spine degenerative  
7 disc disease; essential hypertension; peripheral edema; peripheral neuropathy; congestive  
8 heart failure; chronic pain syndrome.

9 **Step three:** These impairments do not meet or equal the requirements of a listed  
10 impairment.<sup>2</sup>

11 **Residual Functional Capacity:** Plaintiff can perform light work with additional  
12 exertional limitations. She cannot climb ladders, ropes, or scaffolds. She can  
13 occasionally climb ramps and stairs, balance, stoop, kneel, crouch, and crawl. She needs  
14 to avoid concentrated exposure to hazards.

15 **Step four:** Plaintiff can perform past relevant work as an administrative clerk, education  
16 courses sales representative, collections clerk, order clerk, and appointment clerk.

17 **Step five:** There are other jobs that exist in significant numbers in the national economy  
18 that Plaintiff can perform. Plaintiff is therefore not disabled.

19 AR 15–26. The Appeals Council denied Plaintiff’s request for review, making the ALJ’s  
20 decision the Commissioner’s final decision. AR 1–3.

## 21 DISCUSSION

22 The Social Security Act provides that an individual may seek judicial review of a denial  
23 of benefits after a final decision of the Commissioner of Social Security. 42 U.S.C. § 405(g).  
Section 405(g) “clearly limits judicial review to a particular type of agency action, a ‘final  
decision of the [Social Security Administration] made after a hearing.’” *Califano v. Sanders*,  
430 U.S. 99, 108 (1977). Section 405(g) is the exclusive jurisdictional basis for review of

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<sup>1</sup> 20 C.F.R. §§ 404.1520, 416.920.

<sup>2</sup> 20 C.F.R. Part 404, Subpart P, App’x 1.

1 administrative decisions concerning claims for Social Security disability benefits. *See* 42 U.S.C.  
2 § 405(h) (“No findings of fact or decision of the Commissioner of Social Security shall be  
3 reviewed by any person, tribunal, or governmental agency except as herein provided.”);  
4 *Weinberger v. Salfi*, 422 U.S. 749, 757 (holding that § 405(h) prevents “review of decisions of  
5 the [Commissioner of Social Security] save as provided in the Act, which provision is made in  
6 § 405(g).”).

7 In considering a denial of Social Security benefits under § 405(g), the Court has the  
8 “power to enter, upon the pleadings and transcript of the record, a judgment affirming,  
9 modifying, or reversing the decision of the Commissioner of Social Security, with or without  
10 remanding the cause for a rehearing.” The Court specifically considers whether the decision is  
11 supported by substantial evidence and free from legal error. *Ford v. Saul*, 950 F.3d 1141, 1153–  
12 54 (9th Cir. 2020). Plaintiff bears the burden of proving the ALJ and/or Commissioner  
13 committed harmful error in denying her claim for benefits. *See Ludwig v. Astrue*, 681 F.3d 1047,  
14 1054 (9th Cir. 2012) (citing *Shinseki v. Sanders*, 556 U.S. 396, 407–09 (2009)) (holding that the  
15 party challenging an administrative decision bears the burden of proving harmful error).

16 Plaintiff raises a number of issues, all outside this scope of review. Plaintiff argues she is  
17 entitled to a preliminary injunction, although the basis for the injunction is unclear. Dkt. 39 at 1–  
18 3. Preliminary injunctive relief is not available under § 405(g). *See El v. Berryhill*, No. C17-  
19 1383-MAT, 2018 WL 348471, at \*1 (W.D. Wash. Jan. 10, 2018).

20 Plaintiff next argues her employer, which is not clearly identified, committed negligence  
21 by overlooking warnings of her condition. Dkt. 39 at 1–2. There is no allegation the  
22 Commissioner of Social Security was Plaintiff’s employer, and no allegation this had anything to  
23 do with the ALJ’s decision to deny Plaintiff’s claims for benefits. Plaintiff has thus failed to

1 show harmful error in the denial of her Social Security benefits claims.

2       Plaintiff last alleges the Court's Order Denying Default Judgment, Denying Jury Trial,  
3 and Amending Scheduling Order (Dkt. 38) (the "July Order") violated her "right for a speedy  
4 trial, petition for her 1st amendment, and due processes of the law." Dkt. 39 at 2. Constitutional  
5 claims are outside the scope of 42 U.S.C. § 405(g). Even assuming Plaintiff properly raised  
6 these issues, she has failed to show she is entitled to relief. That Plaintiff disagrees with the  
7 Court's July Order does not establish in any way that the Commissioner of Social Security  
8 violated her constitutional rights. Moreover, the right to a speedy trial is a right granted with  
9 respect to criminal prosecutions. U.S. Const. Amend. VI. This is not a criminal proceeding, so  
10 the right does not apply. Similarly, the denials of a default judgment and a jury trial do not relate  
11 to Plaintiff's First Amendment rights or deprive her of due process. Plaintiff has had her  
12 opportunity to be heard by her briefs, which the Court considered in writing this Order. Plaintiff  
13 has thus failed to show harmful error in the denial of her claims for Social Security disability  
14 benefits.

15       Plaintiff raises additional unrelated issues in her Objection and Remand of Case (Dkt.  
16 46), and her reply brief (Dkt. 49). The Court "ordinarily will not consider matters on appeal that  
17 are not specifically and distinctly argued in an appellant's opening brief." *Paladin Assocs., Inc.*  
18 *v. Mont. Power Co.*, 328 F.3d 1145, 1164 (9th Cir. 2003). Even if the Court did consider these  
19 matters, none of Plaintiff's new issues present a basis on which to find the ALJ erred in denying  
20 Plaintiff's claims for Social Security disability benefits. Accordingly, those matters all fall  
21 outside the scope of the Court's review.

22       In sum, Plaintiff has failed to meet her burden of proving the ALJ harmfully erred in  
23 denying Plaintiff's claims for Supplemental Security Income and Disability Insurance benefits.

1 **CONCLUSION**

2 For the foregoing reasons, the Commissioner's final decision is **AFFIRMED** and this  
3 case is **DISMISSED** with prejudice.

4 DATED this 2nd day of February, 2022.

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7 The Honorable Richard A. Jones  
8 United States District Judge  
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